

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GLENN DARRELL BRYANT,

Defendant-Appellant.

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UNPUBLISHED

January 29, 2008

No. 276087

Wayne Circuit Court

LC No. 06-012664-01

Before: Bandstra, P.J., and Donofrio and Servitto, JJ.

PER CURIAM.

Defendant claims an appeal from his convictions of felonious assault, MCL 750.82, and domestic violence, MCL 750.81(2), entered after a bench trial. Because the trial court's conduct did not deny defendant a fair trial, we affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was charged with felonious assault and domestic violence in connection with an incident involving defendant and his brother, complainant Harun Bilal, with whom defendant shared a residence. The prosecution's theory was that defendant shoved Bilal and swung a hammer at him after the men argued about defendant's use of electricity from their residence on a construction project across the street. At several points during the trial on the matter, the trial court questioned the relevancy of an inquiry by defense counsel, and did so on one occasion in response to a question posed by the prosecutor. When making findings of fact and conclusions of law, the trial court indicated that some questions asked by defense counsel were "asinine." However, the trial court found that the case turned on the credibility of the principal witnesses, Bilal and defendant, and accepted the testimony given by Bilal on the ground that it was more consistent than that given by defendant.

A trial court has broad discretion to control trial proceedings. MCL 768.29; *People v Taylor*, 252 Mich App 519, 522; 652 NW2d 526 (2002). This discretion is not unlimited, and if a trial court's conduct "pierces the veil of judicial impartiality, a defendant's conviction must be reversed." *People v Conley*, 270 Mich App 301, 308; 715 NW2d 377 (2006), quoting *People v Collier*, 168 Mich App 687, 698; 425 NW2d 118 (1988). A trial court's conduct pierces the veil of judicial impartiality if it unduly influenced the fact finder and denied the defendant a fair and impartial trial. *People v Paquette*, 214 Mich App 336, 340; 543 NW2d 342 (1995).

Defendant argues that the trial court's comments during trial and the characterization of some of defense counsel's questions as "asinine" deprived him of a fair and impartial trial. Defendant failed to object to the trial court's comments during trial; therefore, this issue is not preserved, *People v Sardy*, 216 Mich App 111, 117-118; 549 NW2d 23 (1996), and our review is for plain error affecting defendant's substantial rights. Reversal is warranted only when a plain error resulted in the conviction of an actually innocent defendant or seriously affected the fairness, integrity, or public reputation of judicial proceedings. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999).

“[J]udicial remarks during the course of a trial that are critical or disapproving of, or even hostile to, counsel, the parties, or their cases, ordinarily do not support a bias or partiality challenge.” *Cain v Dep't of Corrections*, 451 Mich 470, 497 n 30; 548 NW2d 210 (1996) (citation omitted). “Moreover, partiality is not established by expressions of impatience, dissatisfaction, annoyance, and even anger, that are within the bounds of what imperfect men and women sometimes display.” *People v McIntire*, 232 Mich App 71, 105; 591 NW2d 231 (1998), rev'd on other grounds 461 Mich 147; 599 NW2d 102 (1999). In evaluating a claim of judicial misconduct, the record should be viewed as a whole. *Paquette*, *supra* at 340.

The trial court expressed impatience with some questions asked by defense counsel and, in one instance, by the prosecutor. This fact, in and of itself, would not be sufficient to demonstrate that the trial court's conduct deprived defendant of a fair trial. *Cain*, *supra*. The trial court correctly noted that this case turned on the credibility of Bilal and defendant.<sup>1</sup> The trial court's remarks did not go to the credibility of either witness. A fair reading of the trial court's findings of fact and conclusions of law demonstrates that the trial court based its decision on a finding that Bilal's credibility was greater than that of defendant. Defendant has failed to show that the trial court's remarks deprived him of a fair trial, *McIntire*, *supra*, and has not established that plain error occurred. *Carines*, *supra*.

Affirmed.

/s/ Richard A. Bandstra  
/s/ Pat M. Donofrio  
/s/ Deborah A. Servitto

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<sup>1</sup> Defendant does not contest this point, and does not challenge the sufficiency of the evidence introduced by the prosecution.